

MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING SYSTEMS PANEL

SECRETARY OF STATE
1500 11TH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

MONDAY, DECEMBER 2, 2002

10:08 A.M.

Reported by:

Valorie Phillips

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

PANEL MEMBERS

Bob Jennings, Chairperson, UnderSecretary of State

Chon Gutierrez, Assistant Secretary for Operations

John Mott-Smith, Chief, Elections Division

Chris Reynolds, Assistant Secretary for Constituent Affairs
and Legislative Matters

Bernard Soriano, Chief, Information and Technology Division

Steve Trout, Legal Counsel, Elections Division

STAFF

Dawn Mehlhaff, Director
Voter Outreach Programs

William P. Wood, Chief Counsel
Executive Office

ALSO PRESENT

Jeffrey S. Galvin, Counsel
Downey, Brand, Seymour and Rohwer
On behalf of Avante International Technology, Inc.

Kevin Chung, President and Chief Executive Officer
John Byrne, Director of Business Development
Avante International Technology, Inc.

Jill LeVine, Assistant Registrar
Lisa Brabo, Information Technology
County of Sacramento

Pete Martineau
Californians for Electoral Reform

Kim Alexander
California Voter Foundation

Deborah Seiler
Diebold Election Systems, Inc.

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P R O C E E D I N G S

10:08 a.m.

CHAIRPERSON JENNINGS: Good morning; I'm Bob

Jennings, Chairman of the Voting Systems Panel. I'd like to introduce my Panel Members. On my far right, Steve Trout, Legal Counsel for the Elections Division. Next to him Bernard Soriano, who is the Chief of the Information and Technology Division here in the Secretary of State's Office.

My immediate right, John Mott-Smith, who is the Elections Division Chief here with the Secretary of State's Office. On my far right, or far left, your right, Chris Reynolds, who is our Assistant Secretary for Constituent Affairs and Legislative Matters. And on my immediate left, Chon Gutierrez, who is the Assistant Secretary for Operations.

And I'd also like to introduce Valorie Phillips, who is with Peters Shorthand Reporting. She will be taking the minutes of this meeting. And should anyone from the audience speak from the audience, please introduce yourself first so she will know who you are and can record that properly.

I also would like to introduce Dawn Mehlhaff, who is our Voting Systems Analyst and the person who we will be depending on to provide the staff report today. And also Bill Wood, who is our Chief Counsel for the Secretary of

1 State's Office.

2 And with that we'll move to the items on the
3 agenda for this meeting. The number one item is the
4 certification of the Avante Vote-Trakker Touch Screen Voting
5 System. And, Dawn, I'll leave it to you to give us a verbal
6 report of your written report.

7 MS. MEHLHAFF: Thank you. As you know, the Panel
8 first saw the Avante system at the October 11th meeting.
9 And at that time, based on previous staff's recommendation,
10 the Panel chose to certify Avante for early voting only in
11 Sacramento County with certain conditions like they certify
12 the -- that they would survey poll workers in the County and
13 provide some reports back to you.

14 Avante was given a deadline to do that. They did
15 meet the deadlines in order to provide those documents back
16 to the Panel, which you all have seen and they're in your
17 binders.

18 The one outstanding issue were the procedures.
19 The previous procedures that Avante submitted were not
20 appropriate to a DRE system. They were based kind of on a
21 punchcard template. And so Avante went back through and
22 they re-did the procedures; and those were submitted in
23 early November. I believe that that was submitted on
24 November 5th. And you have copies of those, as well.

25 They did submit their report, as I mentioned.

1 Avante submitted a report on the early voting process and
2 how that went in Sacramento County. They also composed all
3 the survey results that were taken from the voters who
4 actually voted on the Avante system.

5 Sacramento County also provided a report on how
6 they felt it went; what went well, what went wrong. And
7 Avante was also supposed to report any problems or issues
8 they had in any jurisdiction, which they did not do since
9 their system has not been used in any other jurisdiction in
10 the nation. So they didn't do anything with that, as they
11 should not have.

12 In terms of the procedures, what I can tell you is
13 I went through the court reported transcript of the October
14 11th meeting. I went through and I pulled out all of your
15 comments and questions that you had at that time. And so I
16 went through their new procedures and tried to answer your
17 questions based on what the procedures provided to us.

18 I can run through those briefly, if you want, to
19 address your questions that you had at the last meeting, to
20 make sure that those are answered.

21 First question was asked, what will be done to
22 keep the printed receipt away from the voter. Avante's
23 procedures clearly address that issue. And they indicate
24 the paper receipt is printed within a clear plastic
25 protective cover. So that's the way it operated in

1 Sacramento County, and the procedures clearly address that.

2 The second question that was raised at the last
3 meeting was what happens if the voter wants to change his or
4 her selection after viewing the receipt. On the October
5 11th meeting the Panel was informed that basically you could
6 vote; you would view the receipt; and you could go back and
7 you could change that up to five times.

8 However, that's not the way the system operated in
9 Sacramento County. And according to Sacramento County's
10 report they submitted to you they were told by Avante that
11 the system provides several options for the printed receipt
12 on how many times it can come in and out, or the different
13 options.

14 However, I cannot answer that question because
15 their procedures do not address that specifically. I can
16 just tell you how it operated in Sacramento County based on
17 what I saw during the early voting and what Sac County's
18 report provided.

19 Basically once the voter voted they hit "cast
20 ballot" and then the receipt printed out through the clear
21 protective casing. And the voter could view it. But the
22 voter could not make any changes to it at that time. The
23 ballot was cast, and that was it. So in terms of the other
24 options, their procedures do not address the fact that there
25 are other options.

1 One of the main issues that was brought up last
2 time was what happens if there's a printer malfunction.
3 According to Sacramento County's report this was an issue
4 that came up. A direct quote from Sac County's report is,
5 quote, "If the printed record jams the machine is out of
6 service until someone could take care of the problem. We
7 relied on Avante Staff to take care of this problem. A few
8 times when the printed record stuck they had to be extracted
9 with many creative tools that were on hand at the early
10 voting site, such as a windshield wiper and a back
11 scratcher. Procedures need to be in place for the handling
12 of the printed record in these types of occurrences. Their
13 procedures do not address the issue on what will happen if
14 there's a printer malfunction. So I cannot answer that
15 question.

16 In terms of another issue was brought up about
17 wireless technology. That was mentioned in several places.
18 The Advisory Committee had comments about that, as well,
19 just wanting to know how that worked. The procedures that
20 Avante submitted do not address that issue, either.

21 In terms of curbside voting, the Panel was
22 concerned about the size of the unit and how that would be
23 addressed. Avante does have a smaller, separate, self-
24 contained unit in addition to this one. So this particular
25 system cannot be moved out to the curb, but they do have

1 another system that could be used.

2 In terms of provisional ballots, that question was
3 raised at the last meeting, as well. The VSP Members at the
4 last meeting were informed that the ballots would be stored
5 in the flash memory; and then later they'd be separated; and
6 then later, after the County election official had
7 determined the voter's eligibility to vote, those would be
8 merged in.

9 The way the system operated in Sac County was not
10 that way. The voted ballot was stored on basically the
11 voter card, the plastic card that's given to the voter. So
12 when the voter put that in the machine to bring up their
13 ballot, their provisional ballot votes were stored onto that
14 card. That card was returned to the precinct worker, put
15 inside the provisional envelope. And then later, once the
16 County determined whether or not that voter's vote should be
17 included in the final canvass, then those were reinserted in
18 the machine and then uploaded. So that's a little bit
19 different than how the Panel was informed last time.

20 In terms of the Advisory Committee. The Advisory
21 Committee gave several comments about the system. The main
22 one was the size and weight of the system, and how that
23 could be managed by poll workers.

24 The Advisory Committee also questioned or raised
25 the concern about the validity of early voting as an

1 adequate test of a system because when you do an early
2 voting test basically you're using County Staff and the
3 vendor's staff to deal with the system and deal with any
4 problems that may arise. So that concern was raised by the
5 Advisory Committee.

6 And the Advisory Committee also brought up the
7 issue about the Avante System's votes being integrated with
8 the County's current vote tabulation system, which, in Sac
9 County's case, their vendor, DFM, basically worked through
10 that process and did a -- worked it through so that Avante's
11 votes could be integrated with their system.

12 One of the members of the Advisory Committee also
13 indicated that they felt that the procedures and the
14 operational requirements may be too complex for poll
15 workers, the way that they are currently written.

16 In terms of the reports that were submitted, based
17 on your comments at the last Panel meeting, Avante's report
18 indicated that they had 100 percent accuracy in recording
19 voter intent; and they had zero percent residual votes.
20 Undervote rate was 1.55 percent, as compared to the Pollstar
21 system of 3.77 percent.

22 Avante did indicate that based on suggestions from
23 voters that they have made some modifications to the system,
24 so these are modifications that are different from the
25 system that you originally saw. And I believe that the

1 system is as it is in the back of the room has those
2 modifications on it, including some of the prompts, changing
3 the default prompts, changing the scroll bars and different
4 user interfaces.

5 Sacramento County's report basically indicated
6 that Avante met their needs; that the system worked. That
7 it was taxing on their staff, I think, was one of their
8 comments. But that it did work for the purpose in which
9 they intended it to. Overall they said voters with
10 disabilities were pleased with the system because they were
11 able to vote with no assistance.

12 The printed record was the issues I mentioned,
13 just with the jamming, and that they had to rely on the
14 vendor to use creative tools in order to un-jam the printed
15 record.

16 The canvass worked once they had both of them
17 merged with their current system. The set-up and tear-down,
18 according to Sacramento County it took anywhere from 15 to
19 45 minutes to set-up and tear-down the units.

20 Avante actually, at Sac County's request, took all
21 the survey results and transcribed survey results of the
22 voters. They indicated that of the 90 percent of the voters
23 who submitted comments, 90 percent thought that it was
24 great. Seven percent evaluated the system as so-so, and 2.2
25 percent felt that it needed additional work.

1 And as I mentioned, they took some of those
2 comments from the voters and made modifications to their
3 current system accordingly.

4 My recommendation to the Panel at this point,
5 although I have not tested the system, previous staff was
6 the one that tested it, and based on the procedures not
7 fully answering some of the questions that I have about the
8 system, I cannot recommend certification at this time for
9 the system based on my experience with the system.

10 If the Panel wishes to certify the system, my
11 recommendation would be that they certify based on previous
12 staff's recommendation; or the Panel should certify the
13 system for early voting use only; or they should direct me
14 to go back and undertake testing based on the procedures,
15 because the Avante system has not been tested against
16 procedures, which it should have been.

17 So, those are the three options the Panel has, in
18 my opinion.

19 CHAIRPERSON JENNINGS: Thank you, Dawn. Do any
20 members of the Panel have a question for Dawn?

21 PANEL MEMBER REYNOLDS: There may be some
22 questions that I can ask that Dawn might be able to answer.

23 I was wondering about there's a letter in the
24 binder from Robert Naegele.

25 MS. MEHLHAFF: Yes.

1 PANEL MEMBER REYNOLDS: Is that letter current?
2 It mentions the disconnect, or the difficulty of using the
3 punchcard procedure template for the DRE machine. Is that
4 letter current? Do we have anything in writing from Robert
5 Naegele that says, no, I've seen the updated procedures and
6 now they're -- or has he said anything orally?

7 MS. MEHLHAFF: We do not have anything in writing
8 besides that letter saying about the disconnect. That
9 letter addresses the procedures that were originally before
10 the Panel when you first saw this. So his comments were
11 that those procedures were unacceptable, and they were based
12 on a punchcard template.

13 Since that time I provided the vendor, Avante,
14 with previous procedures that we've adopted for DRE so they
15 could see what they're supposed to follow. So they went
16 through using those guidelines and re-did the procedures,
17 which we have now.

18 We do not have a report back from Mr. Naegele on
19 these procedures. He has verbally said that they are okay
20 in the sense that they've more aligned with DRE procedures.
21 But as the Panel needs to understand, we rely mostly on Bob
22 Naegele as far as testing, the testing authority. He's kind
23 of the final say on the testing, whether or not it meets
24 muster on that part.

25 In terms of the procedure, Mr. Naegele looks at

1 them kind of an overview, to make sure that they are going
2 down the right track. It's been my job to go through and
3 look at them basically page by page, item by item, to make
4 sure that they address what they are supposed to address.

5 PANEL MEMBER REYNOLDS: And what you said was that
6 you had not tested -- the system had not been tested against
7 those procedures?

8 MS. MEHLHAFF: That is correct, the --

9 PANEL MEMBER REYNOLDS: Okay, so I understand --

10 MS. MEHLHAFF: -- procedures --

11 PANEL MEMBER REYNOLDS: -- what that means.

12 MS. MEHLHAFF: Yes.

13 PANEL MEMBER REYNOLDS: That the previous staff
14 recommendation was not based on testing against those
15 procedures?

16 MS. MEHLHAFF: Correct.

17 PANEL MEMBER REYNOLDS: Okay. I just wanted to
18 understand that.

19 There's a number of other questions that I have
20 based on the reports, but --

21 CHAIRPERSON JENNINGS: I don't believe the members
22 of the audience have a copy of this letter that was faxed to
23 me from Jeffrey Galvin, who is the attorney for Avante.
24 This was sent to me Wednesday afternoon, and I was out
25 Wednesday afternoon, and I read it this morning.

1 With respect to the question you asked, Chris, let
2 me just quote from this letter:

3 "In a letter to Avante's counsel on November 1st, you"
4 speaking about me" asked Avante to communicate with BSP
5 consultant Robert Naegele regarding the adequacy of the
6 procedures. Avante Staff discussed the matter with Mr.
7 Naegele and submitted revised procedures on November 5,
8 2002. Mr. Naegele informed Avante Staff orally on
9 November 5 that he accepted the revised procedures."

10 So that verifies, Dawn, what you said, and that
11 was that he had verified that he received and reviewed those
12 procedures.

13 MS. MEHLHAFF: Correct.

14 CHAIRPERSON JENNINGS: And he did not have any
15 comment with respect to them being adequate or inadequate?
16 I'm assuming that he assumed that they were adequate.

17 MS. MEHLHAFF: He assumed that they were adequate
18 and his comment to me was that they were okay in the sense
19 that they were more in line with what they should be as a
20 DRE set of procedures. That they were no longer modeled
21 after a punchcard system.

22 CHAIRPERSON JENNINGS: Thank you. Any other
23 questions from the Panel of Dawn?

24 PANEL MEMBER TROUT: I've got one, just a concern
25 that we're talking about modifications to a system now. So,

1 just to be clear where we're at, we're taking a vote today
2 on what's been submitted previously, not what's before us
3 back in the back of the room where Avante has taken steps to
4 modify their system to address some of the issues that were
5 raised in the early voting testing, is that correct?

6 MS. MEHLHAFF: That is my understanding, that
7 Avante has a system here today that has been modified from
8 the system in which was before you previously, which they
9 have taken into consideration comments and feedback from the
10 voters who used it during the early voting phase.

11 PANEL MEMBER TROUT: But, --

12 MS. MEHLHAFF: So, yes, this would be a different
13 system than what was originally before you.

14 PANEL MEMBER TROUT: But that system is not before
15 us and hasn't been tested, so we're really acting on the
16 previous version of the system that was used in Sacramento
17 County's early voting?

18 MS. MEHLHAFF: Yes.

19 CHAIRPERSON JENNINGS: Well, to that point, have
20 most of the changes or all of the changes, would they be
21 considered cosmetic in terms of their response to a voter's
22 need, rather than something that had to do with the actual
23 logic and accuracy of the machine, itself?

24 MS. MEHLHAFF: I do not know for sure. My guess
25 is yes, that they would be mostly user interface. But

1 Avante has not provided me with anything that tells me these
2 are the exact changes we are making. So I cannot answer
3 that --

4 CHAIRPERSON JENNINGS: I see.

5 MS. MEHLHAFF: -- with complete accuracy.

6 CHAIRPERSON JENNINGS: Mr. Galvin.

7 MR. GALVIN: I'm Jeff Galvin and I'm counsel for
8 Avante. Thanks for the opportunity to address the Panel
9 this morning.

10 In response to that last question we would ask the
11 Panel consider the system with the modifications that are
12 displayed today. The modifications are minor. They're
13 basically just changes in the settings of the system.

14 One of them, for example, is how long does it take
15 for the prompt "please make your selection" to appear on the
16 screen. Comments were raised during an early vote that that
17 prompt came up too soon and that it was distracting for the
18 voters. That's a simple setting change in the system. So
19 now, as programmed, 30 seconds or so will elapse before that
20 prompt appears.

21 Another change was that when you press one of the
22 buttons on the touch screen, before it was highlighted for
23 such a split second that it was hard for the voter to see
24 that, in fact, their selection was being honored at the
25 moment they press that button. Now we've extended that

1 setting to a third of a second, so you'll see that button
2 light up before the screen moves on.

3 We also have an antistatic guard that we have
4 developed which should reduce any issue of paper jams, which
5 is basically a simple metal plate that reduces the static.
6 So that the modifications are very minor. With the
7 exception of the static guard, they're all in the settings
8 of the program. And we certainly would like the Panel to
9 consider the system as proposed.

10 Those changes were discussed in our letter of
11 November 14th or 15th to the Panel where we how we were
12 going to change the system. And they were also addressed in
13 the letter that was sent last Wednesday.

14 The letter that was sent last Wednesday was an
15 effort to respond to some of the concerns that Ms. Mehlhaff
16 raised in the staff report so that we could spell out our
17 position.

18 Briefly on the issue of the procedures, the
19 chronology is that we submitted the procedures on September
20 16th by email to Lou Dedier, who was then the staff person
21 for the Panel.

22 At the time of the October 11th meeting apparently
23 the procedures hadn't been fully reviewed. We didn't get
24 any comments or critiques on the procedures until we
25 received Mr. Jennings' letter on November 1st. And we

1 immediately made contact with Mr. Naegele, and within four
2 days submitted revisions to the procedures.

3 Those revisions, by the way, are fairly minor.
4 The procedures are about the same length as before. The
5 revisions were what we regard as slight and technical. So
6 the procedures that we first submitted on September 16th are
7 more or less the same as the procedures that are now before
8 the Panel, again with a few slight adjustments.

9 CHAIRPERSON JENNINGS: Thank you, Mr. Galvin. Any
10 other questions from members of the Panel of Dawn Mehlhaff?

11 PANEL MEMBER SORIANO: I do, Bob.

12 CHAIRPERSON JENNINGS: Bernard.

13 PANEL MEMBER SORIANO: I missed the point with
14 regard to what Mr. Galvin was saying. Dawn, do you, at this
15 point, have a list of all of the modifications that were
16 made to the system?

17 MS. MEHLHAFF: I don't have a list of the
18 modifications, but I do have, as he mentioned, in their
19 letter they said they were going to make these modifications
20 to the system based on the voters' feedback.

21 But I do not have anything that tells me this
22 modification -- normally when vendors make modifications to
23 their systems they will submit something to me that says,
24 this is the modification. And they'll just lay it out in
25 terms of all the technical aspects of it. That such

1 document I do not have in terms of where the changes exactly
2 were made.

3 Yes, their letter does say that they were going to
4 make these three changes. But that's all that they said.
5 So, in terms of the technical side of it, I do not have
6 anything more than that to determine where these changes
7 occur in the system or any of that.

8 PANEL MEMBER SORIANO: Okay, thank you.

9 CHAIRPERSON JENNINGS: And I have a question.
10 Seems like there's some confusion. I read and continue to
11 read that the system, Vote-Trakker System EVC-308, which is
12 the one we're considering, weighs between 44 to 52 pounds
13 depending on the paper that it contains. And yet something
14 in the back of my mind tells me that -- and I can't place if
15 I ever saw it in writing -- a figure of 105 pounds comes to
16 mind.

17 Do you know, Dawn, where this disparity -- I think
18 everyone on this panel has heard the 105 figure. And I
19 think it's been some concern if, in fact, the system does
20 weigh that much, or each unit weigh that much. It presents
21 some unique problems with respect to them being used at the
22 precinct location.

23 Can you clarify that at all?

24 MS. MEHLHAFF: I think I would rely on the vendor
25 to tell us what their system weighs. The weight that you're

1 discussing, that was brought up in the last meeting from the
2 staff report that was presented to you last time, the fact
3 that it weighed over 100 pounds, and that there were, you
4 know, CalOSHA requirements with that.

5 In terms of the actual weight, I've been told also
6 by the vendor that it weighs between 44 and 52 pounds. So,
7 I am also aware of the disparity there.

8 CHAIRPERSON JENNINGS: Mr. Galvin, would you like
9 to respond to that?

10 MR. GALVIN: Yes, please. I understand that there
11 is some -- an inconsistency in the record here. The
12 machine, itself, as displayed here and as used in Sacramento
13 County does weigh 44 to 52 pounds depending on how much
14 paper is loaded in the system.

15 The system does weigh more than that when it is
16 fully packed in shipping crates, as are used when the
17 machines are sent from coast to coast across the country.
18 So perhaps the reference in the previous meeting was to the
19 weight of the machines when they're fully packed up and
20 ready for shipment.

21 Our understanding is that in the Sacramento County
22 early vote the machines were transported in boxes and were
23 not packaged up in heavy shipping crates. And so they were
24 quite a bit lighter.

25 And on the issue of the weight of the machines I'd

1 also invite the Panel Members this morning before voting to
2 hoist the machine, themselves. There are two handles on
3 either side of the machine. And as you'll see, if you put
4 one person on one side of the machine and the other person
5 on the other side of the machine, half of 52 pounds, it
6 certainly isn't very much. I have a nine-month-old baby, so
7 I'm getting more and more familiar with how much 20 pounds
8 weighs.

9 So, I'd urge the Panel Members, if they have any
10 questions about weight, simply to experiment hoisting the
11 machine themselves. There are two nice handles for that
12 purpose.

13 CHAIRPERSON JENNINGS: Thank you. Mr. Mott-Smith
14 just pointed out to me that in the previous report that it
15 did include the carrying case in that weight figure. So, I
16 just did not pick that up.

17 PANEL MEMBER MOTT-SMITH: Well, following up on
18 that, though, what is the -- and I have a series of
19 questions. I don't know if you're the appropriate person to
20 answer them or not. Maybe, John, you are.

21 In fact, I think I'll just wait till the vendor
22 has an opportunity to make his points.

23 CHAIRPERSON JENNINGS: Again, any other questions
24 now of Dawn from members of the Panel?

25 PANEL MEMBER GUTIERREZ: Mr. Chairman, I have a

1 series of questions, too. But I'm interested in hearing --

2 CHAIRPERSON JENNINGS: From the vendor.

3 PANEL MEMBER GUTIERREZ: And anyone else in the
4 audience who may have a comment.

5 CHAIRPERSON JENNINGS: Well, then if there are no
6 more questions of Dawn, why don't we move then to the
7 audience. It was suggested that perhaps the members of the
8 Panel and also any members of the audience, have an
9 opportunity to view the system with the cosmetic changes
10 that have been made with respect to the settings. I guess
11 the antistatic guard is also in there, as well.

12 If we can just take a few minutes and just move up
13 to the machine and take a look at how that works, is that
14 appropriate at this time?

15 John and Kevin, are you prepared to show us that?
16 Okay, why don't we do that for just a moment or two, and
17 take a look at it. Then we'll come back and we'll ask for
18 response from Avante. Okay?

19 (Brief recess.)

20 CHAIRPERSON JENNINGS: I want to note for the
21 record that Chon Gutierrez had to step out at the request of
22 the Secretary and should be back momentarily. But, in the
23 essence of completing this hearing as quickly as possible, I
24 think we'll move forward.

25 I asked the representatives of Avante, once we

1 went back on the record, that they may want to explain the
2 differential that we're hearing in terms of weight, and just
3 exactly what the 48 to 52 pounds means, and what the 95 to
4 102 pounds means.

5 So, is there a representative who would like to
6 answer that question? Mr. Chung.

7 DR. CHUNG: My name is Kevin Chung from Avante.
8 The weight, itself, as you see as all of you tried to lift
9 this, is 44 to 52 pounds, depending on the paper that we put
10 in.

11 Sometimes we put 1500 feet; sometimes we simply
12 put 300 feet; depends on the election that we're holding.
13 So that's why the weight will change, depending on paper we
14 put in.

15 However, during shipping, in this early election,
16 as it is now minus the receipt collection stuff, is going to
17 be actually put in the van and shipped. So there's no
18 additional weight when is transporting. At least for this
19 elections.

20 However, when we ship it from coast to coast, we
21 have two choices. Put it on the paper box with styrofoam
22 protections on the side. We did that for this particular 30
23 units when we ship it, because obviously it's very bulky to
24 ship, anything else. In this particular case is roughly 60
25 pounds or so, minus the paper, when we ship it.

1 So, however, in our normal course of doing
2 demonstration process when we ship the whole thing to people
3 it might include, for example, if I have to send a unit to
4 John for demo in Oregon, I might have to ship him additional
5 stuff by UPS and the other stuff. So the box tend to be
6 bigger and more heftier, so they will stay in place all the
7 time. So he can use it and transport it. And he can also
8 use that as part of the table for his stand, as well. So
9 that's what I think was referred to as in 95 to 105 pounds.
10 And that would be very sturdy, hard case boxes with rails
11 and so on, for UPS and so on.

12 PANEL MEMBER MOTT-SMITH: What is it that goes to
13 the polling place? What's the weight of the equipment that
14 is --

15 DR. CHUNG: The fully loaded paper is 52 pounds
16 for the early voting. If it was for precinct voting,
17 probably 48. Paper is roughly 10 pounds if it's 1000 feet
18 of paper.

19 PANEL MEMBER MOTT-SMITH: Thanks.

20 CHAIRPERSON JENNINGS: Mr. Chung, would you
21 continue to stay right by that microphone because we might
22 have other questions from the Panel that you could answer
23 for us.

24 Do we have other questions? I know, Chris, you
25 had a list.

1 PANEL MEMBER REYNOLDS: Yeah, I do have a few
2 questions. And maybe Dawn can help me out, too. But from
3 the vendor primarily -- I guess Dawn can't help me because
4 she hasn't seen the procedures.

5 The printed record issues. The County, I believe,
6 raised the issue of a reference to the paper receipt as a
7 receipt, meaning that the voters' expectation was that it
8 was something that they could take with them.

9 Is there anything in the new procedures which is
10 going to try to address the issue that a voter can't have
11 that piece of paper? Is there any notification you're going
12 to give? Is there any poll worker training that needs to go
13 along with that to explain to people why they can't have the
14 receipt?

15 DR. CHUNG: This is Kevin Chung, again. This
16 office is our first elections. A lot of the training that
17 we gave to the poll workers was what we believed necessary.
18 And one, the issue about the paper record, is we did train,
19 but obviously for the poll workers only the first time they
20 know. So, some poll worker would explain to the voters, you
21 won't be able to see the -- you won't be able to take the
22 receipt; you are supposed to see it.

23 Some poll worker just less diligent, they didn't
24 tell them during the training of the voters. Then obviously
25 they run into some problem. Depending on location, some

1 locations are better than others.

2 So, for most part, that, in the future, will be
3 incorporated in detail, including in the video outreach
4 program, plus the demo program to tell them that, as well.

5 CHAIRPERSON JENNINGS: I didn't see it as a
6 problem. It didn't seem to pick up real heavy in the
7 responses from, you know, on your survey of the voters.
8 They didn't seem to ask about that very much. It was, you
9 know, just kind of a minimal --

10 DR. CHUNG: Good observation. That particular
11 paper trail, all the record, was not part of the survey. It
12 was -- we didn't construct the survey. It was a consultant
13 hired by the County.

14 MS. LeVINE: Do you want me to address that
15 question?

16 CHAIRPERSON JENNINGS: Please.

17 MS. LeVINE: Jill LeVine, Sacramento County. The
18 paper receipt, I think, is our terminology. And our voters
19 in Sacramento County were used to having a tear-off receipt.
20 And so when we said check your receipt, they thought they
21 could take it with them. It was their terminology.

22 And so we were, you know, in reviewing it, we need
23 to change the wording. Check your printed, you know, view
24 your printed, you know, whatever we're going to use, a new
25 word for it. And not call it a receipt.

1 I think once we change that wording we'll be fine
2 if we continue to use this type of system.

3 CHAIRPERSON JENNINGS: Could you not use the word
4 ballot?

5 MS. LeVINE: We could use the word ballot. It
6 just was, you know, new to us. We said, oh, look at your
7 receipt. Well, the receipt, I need to take it. And it was
8 not a receipt. It was view your printed copy of your ballot
9 and it will be taken. As a receipt, here, you get a
10 sticker. So we just had to change that.

11 PANEL MEMBER REYNOLDS: Absent the reference to a
12 receipt, do you think that there's any efficacy in having
13 some kind of a notice at the end of the machine on the
14 screen that says, you know, view your printed ballot, which
15 is a permanent record and cannot be, you know, supplied to
16 you as a voter? I'm just wondering whether there's
17 something --

18 MS. LeVINE: That could be done. And I think just
19 plain outreach to the voter, you know, because it was a
20 brand new procedure for so many of them, even our poll
21 workers.

22 PANEL MEMBER REYNOLDS: What about the person who
23 knocked the shield off there, did they want to take the
24 receipt?

25 MS. LeVINE: No.

1 PANEL MEMBER REYNOLDS: When they got access to
2 it?

3 MS. LeVINE: No.

4 PANEL MEMBER REYNOLDS: Okay.

5 MS. LeVINE: They just hit it wrong.

6 PANEL MEMBER REYNOLDS: Okay. Was that --

7 PANEL MEMBER MOTT-SMITH: Can I interrupt you for
8 just one second?

9 PANEL MEMBER REYNOLDS: Yes, please.

10 PANEL MEMBER MOTT-SMITH: Bill, could I ask you a
11 small favor? Could you and Dawn shift over just so Mr.
12 Chung could be here, too. Because I think if we can get
13 both people responding to questions that would be useful.

14 And if I can tag onto what Chris said here, the
15 survey instrument that you apparently developed, I don't
16 know if you or the vendor have noticed that it was a
17 condition of the certification for the election that you
18 conducted, that that be developed in conjunction with our
19 office.

20 I'm not aware that either you or the vendor or
21 anybody spoke with us about what questions should be on it,
22 or the nature of the survey in any way, shape or form.

23 MS. LeVINE: No. I'm not aware of that, either.

24 PANEL MEMBER MOTT-SMITH: Mr. Chung, did you
25 notice that in the conditions for approval at the October

1 11th meeting?

2 DR. CHUNG: If you remind me now I do remember.

3 But at the time when I looked at the record I was suggesting
4 that they were going to have to develop that, as well. But
5 apparently it was already printed. That survey was planned
6 and printed already. It was hired an outside consultant to
7 do so. So it's not my place to tell them to change it
8 totally.

9 PANEL MEMBER MOTT-SMITH: It's a minor example of
10 what, for me, is a big issue. And what I really want to
11 impress upon both the County and the vendor are that the
12 procedures that we adopt for use of the voting system, and
13 the conditions that we place on the use of the voting system
14 are things that we take very seriously.

15 And that's a small example of something, perhaps
16 meaningless even, that didn't get responded to. But, I
17 think repeatedly we've heard today and before that these
18 issues are addressed in poll worker procedures, poll worker
19 manuals or other documentation that the vendor has.

20 But I just want to be very very clear, primarily
21 with the vendor, that our understanding is that all these
22 issues need to be in the procedures that are adopted by the
23 Voting Systems Panel, not in ancillary documentation to the
24 system.

25 If it's not in those procedures, it's not there,

1 for purposes of our certification.

2 And I didn't mean to get too far off track there,
3 Chris.

4 PANEL MEMBER REYNOLDS: Not at all, because I was
5 going to move on to another issue. But I see that there's a
6 member of the audience who wanted to make a comment.

7 CHAIRPERSON JENNINGS: Yes, sir, please introduce
8 yourself.

9 MR. MARTINEAU: I'm Pete Martineau, and I'm from
10 the Sacramento area, but I'm a Director of Californians for
11 Electoral Reform.

12 On that same issue, if San Francisco County, for
13 example, decides to take touch-screen machines, as I
14 understand it, the Legislature has not required the
15 certification of a ranked ballot. Because San Francisco
16 will be using instant runoff voting, hopefully in the fall
17 of 2003.

18 What are the procedures for certification of that?
19 Will the counties be able to use the procedures that the
20 National Association of Secretaries of State, as I
21 understand, have set up for instant runoff, counting of a
22 rank ballot? Or what will San Francisco have to do to
23 satisfy the state to accept machines that count rank ballots
24 for instant runoff voting?

25 CHAIRPERSON JENNINGS: I don't have an answer for

1 that. John.

2 PANEL MEMBER MOTT-SMITH: That issue isn't before
3 us today.

4 MR. MARTINEAU: Yes, I'm sorry, I thought it was
5 ancillary to it, and I thought I might --

6 PANEL MEMBER MOTT-SMITH: Yeah, I think it would
7 be appropriate for us to stick to the Avante application.
8 If you want to talk after the meeting about San Francisco,
9 we'd be happy to do that. But we don't have anything in
10 front of us.

11 PANEL MEMBER REYNOLDS: So then I'll --

12 CHAIRPERSON JENNINGS: Yeah, go ahead, Chris.

13 PANEL MEMBER REYNOLDS: The next question I had
14 had to do with paper jams. Since the record, there's a
15 reference to a permanent paper record in the federal Act.
16 Since we have a system here that is producing something that
17 the voter views that's on paper, paper jams are pretty
18 important.

19 And I'll note from the letter that Mr. Chung sent
20 to us, I believe, the November 27th letter that was sent to
21 the Chair of the Voting Systems Panel. It makes reference
22 to the fact that the procedures do not discuss printer
23 malfunctions.

24 I think that's kind of important. And the
25 reference in the County report to the ways to handle the

1 paper jam, to clear it up. And the Sacramento County report
2 making reference to the fact that the procedures really
3 should include something that talks about how you clear a
4 paper jam.

5 And then the reference in the November 27th letter
6 to adding a few paragraphs in the procedures in that regard.
7 And I'll play off of what the Elections Division Chief John
8 Mott-Smith mentioned in that regard. And then the reference
9 again in the letter, additionally we will include a segment
10 on printer issues and paper jams in the training we offer to
11 any County. And we can offer tools to assist in clearing
12 any paper jams that do occur.

13 A back-scratcher would be great, I guess, but I
14 just thought it was important to note that I'm very much,
15 and I know I've harped on this issue before, concerned about
16 the paper and the roll that the paper plays.

17 And so if there's any comment that the vendor or
18 the County might want to make at this time about my
19 comments, I guess I'd like to hear them.

20 MR. GALVIN: Well, first of all on the paper
21 trail, we offered a real-time paper record capability for
22 two reasons. One is that that becomes part of the audit
23 trail associated with the vote.

24 The second reason is it's associated with voter
25 confidence in the system. They can see that the system is

1 capturing their vote instantly.

2 If there is a printer malfunction of some sort, of
3 course the poll workers should be able to deal with that on
4 the spot and fix it. If, for some reason, the machine
5 cannot be fixed, it can operate in a paper-free mode which
6 would still be capable of generating a paper record of that
7 vote after the fact.

8 In fact, the machines that the Panel has already
9 approved do not create real-time paper records. What
10 they're capable of doing, as I understand it, is generating
11 a paper record after the fact.

12 So, if the printer were to malfunction the Avante
13 equipment would be just like the others. It wouldn't
14 generate a real-time paper record and, instead, would
15 generate a -- could generate a paper record after the fact.
16 That responds to the question about the paper record.

17 On the issue of the procedures and printers --

18 CHAIRPERSON JENNINGS: Excuse me, just a moment.
19 But doesn't the machine just stop when you have a paper jam?
20 You can't use that machine; that unit is, for the most part,
21 frozen until the jam is repaired?

22 MR. GALVIN: I think Mr. Chung can answer that
23 question.

24 DR. CHUNG: Yes. In actual sense, yes, it should
25 be stopped at that point because that is the paper receipt i

1 in front. What we traditionally train people to do at that
2 point is to cover, using another piece of paper, cover the
3 top; remove the chute and then remove the paper.

4 And that, for most part, what the report mentioned
5 is partly true, is handled by both Avante Staff, but also in
6 locations such as at a county office, it was handled by the
7 poll worker, as well.

8 Basically just take off that chute and drop it,
9 drop it all and don't look at it. That's the basic
10 procedure. We would certainly add that in any of the future
11 procedures.

12 And we would also train that as part of the
13 training procedure, as part of --

14 PANEL MEMBER REYNOLDS: Wondering whether that
15 adds ballot security questions, though, too. If you have
16 a -- okay, we have printed records inside the machine. And
17 now we have a procedure that says the machine has jammed so
18 we're going to pull -- we're going to remove the guard; take
19 that ballot. Then we're going to have to secure that
20 ballot.

21 Make sure somehow that that is retained and
22 secure, because it has to go in with the other ballots
23 because it's a part of the audit trail.

24 And then we have to know whether the machine then
25 will self correct, and we won't have any more printer

1 malfunctions; or whether each time the voter finishes with
2 the machine a receipt will have to be pulled.

3 It just raises questions about how to handle it.

4 DR. CHUNG: Our experience is that it only
5 happened very few times over the 1600 votes.

6 PANEL MEMBER REYNOLDS: But when it did happen and
7 the poll worker had to remove the ballot manually, and I
8 assume that there was no written procedure about what to do
9 with it, but that it was handled appropriately.

10 DR. CHUNG: Right.

11 PANEL MEMBER REYNOLDS: So that's an assumption
12 I'm making, and I think it should be in a written procedure.
13 But was the machine then free to print another receipt, and
14 did it do it correctly?

15 DR. CHUNG: Yes, it will, from that point on.

16 PANEL MEMBER REYNOLDS: Okay.

17 DR. CHUNG: Like I said, the experience we have,
18 plus the first time we experience is that the receipt will
19 stay there because there's static charges that build up with
20 such a long receipt over a plastic strip of that length.
21 Never happen before.

22 PANEL MEMBER REYNOLDS: Okay, so that was the
23 cause and you've fixed it with your anti-static guard.

24 PANEL MEMBER MOTT-SMITH: And, Jill, in that 1
25 percent manual recount did you use the receipts that the

1 voter had access to viewing, or did you use what was printed
2 off of the --

3 MS. LeVINE: On the 1 percent manual recount we
4 used everything. We used the receipts that the voters
5 viewed; we used the printout from the machine; and we used
6 the tally from the machine. So we cross-checked all three
7 and made sure all three matched.

8 PANEL MEMBER MOTT-SMITH: Well, in those
9 situations where you had a printer jam or malfunction, you
10 had no lack of reconciliation between what was in the memory
11 pack and what was printed on a piece of paper?

12 MS. LeVINE: No.

13 PANEL MEMBER MOTT-SMITH: Now, if you had -- you
14 didn't use the functionality where a voter could decide to
15 invalidate -- to change their mind after they looked at
16 their receipt?

17 MS. LeVINE: Correct, we did not use that
18 function.

19 PANEL MEMBER MOTT-SMITH: So I guess I can't ask
20 you that question.

21 PANEL MEMBER REYNOLDS: I did want to ask one
22 other question that had to do with the paper. And that was
23 the reference in removing every ten votes, there was a
24 decision made at some point to start removing the paper.
25 And it was decided that that should be done for ballot

1 security reasons.

2 And why did someone do that? Why did someone
3 decide to do that? Was it part of the procedures? It was
4 kind of an ad hoc decision that was made? I just -- I'm
5 curious to know how that fits into what happened.

6 DR. CHUNG: The rationale behind that was again
7 the static problem the first time we saw it. When you have
8 high static the paper tend to go everywhere. And it's
9 increased the probability for that paper to jam.

10 PANEL MEMBER REYNOLDS: Okay.

11 MS. LeVINE: And we did have one of our longest
12 ballots ever, so the paper was -- and that was something
13 that has to be considered when we look at all the options of
14 which way.

15 PANEL MEMBER REYNOLDS: One last question then.
16 Have you considered -- well, never mind, it would create
17 problems of its own. I was thinking a continuous loop.

18 DR. CHUNG: We can't do that.

19 PANEL MEMBER REYNOLDS: Can't do that, okay. I
20 was just curious about that.

21 DR. CHUNG: To follow up address your question
22 about the terminologies, from now on we will use paper
23 record because that is what the federal standard call for
24 now, is the federal law. So we will use paper record as the
25 terminology.

1 I think your suggestion the last screen to remind
2 the voter is good. We should implement additional notice to
3 the voters.

4 PANEL MEMBER REYNOLDS: I had some other
5 questions, too, I'm sorry, but --

6 CHAIRPERSON JENNINGS: I have just one more
7 question, since the County did not adopt the option of
8 allowing the voter to look at their ballot and then change
9 it up to five times, I'm still not clear how, if in fact,
10 the voter did for five times, each time they read their
11 ballot and decided not to cast their ballot in that way,
12 they wanted to alter their ballot, if you had up to five
13 times that, how are those ballots, I guess you might say
14 coded, or are they coded so that you know that those are
15 spoiled ballots?

16 DR. CHUNG: That's a very good question, as well.
17 For if you were to use that options we should explain when
18 we print the paper record official voter was cast has a
19 tracking number in it. It's a randomly generated reference
20 number for that particular voting sessions.

21 So, when we print a, what we call a trial receipt
22 for -- paper record, sorry -- trial paper record, then it
23 has no tracking number. So it does not, also it does not
24 record that in the machines.

25 CHAIRPERSON JENNINGS: So the tracking number is

1 given to it as the person says, yes, I'm casting this
2 ballot?

3 DR. CHUNG: Right.

4 CHAIRPERSON JENNINGS: And as it pulls back in it
5 gets a tracking --

6 DR. CHUNG: No, no, it was printed out when it's
7 finalized casted. The cast ballot in that case, remember in
8 our case we have -- you had to press the cast ballot twice.

9 CHAIRPERSON JENNINGS: Twice, um-hum.

10 DR. CHUNG: So, in the trial case you would cast
11 it once, then they would print it out. Then when you
12 confirm it by casting it another time, then it will--

13 CHAIRPERSON JENNINGS: That answers my question.

14 PANEL MEMBER REYNOLDS: What happens to the paper?
15 I mean it has to print something --

16 DR. CHUNG: Every paper will be taken into the
17 machine.

18 PANEL MEMBER REYNOLDS: Okay.

19 DR. CHUNG: Just that you will have to disregard
20 those.

21 PANEL MEMBER REYNOLDS: So the electronic one --
22 there's got to be a record, though, that shows that somebody
23 voted four times that were spoiled ballots in your tally,
24 somehow.

25 DR. CHUNG: No. The only record that is stored is

1 when people cast it twice. Two times. Before that
2 nothing's get recorded.

3 PANEL MEMBER REYNOLDS: But in your -- if you're
4 using a paper ballot system you're going to know how many
5 ballots were delivered to the polling place. And at the end
6 of the day you're going to have to say I've got this many
7 ballots in the box, and I've got this many spoiled ballots.

8 In your machine you're moving along and you see
9 the printed receipt and you say, no, that's not the way I
10 want it to look. So you say I want to do this again. It
11 pulls that piece of paper back into the machine.

12 We have to have a record of the fact that someone
13 said that's a spoiled ballot.

14 DR. CHUNG: No, that's not --

15 CHAIRPERSON JENNINGS: No, it doesn't get a
16 tracking number, Chris.

17 PANEL MEMBER REYNOLDS: But when you start
18 counting the paper, you're going to have these ones --

19 CHAIRPERSON JENNINGS: Only ones that -- you would
20 separate any of those that did not have a tracking number on
21 it.

22 PANEL MEMBER REYNOLDS: Right.

23 CHAIRPERSON JENNINGS: So the only thing you're
24 counting is those with a tracking number.

25 PANEL MEMBER REYNOLDS: But the receipt that comes

1 back in the machine at that point gets a tracking number on
2 it, then?

3 DR. CHUNG: Only the one that you casted twice.

4 CHAIRPERSON JENNINGS: Only the one they casted
5 the second time.

6 PANEL MEMBER REYNOLDS: Okay, got 'cha.

7 CHAIRPERSON JENNINGS: All right, did you have
8 other questions?

9 PANEL MEMBER REYNOLDS: Yes. There was a
10 reference in the -- a canvass issue. On page 3 of the
11 County report, I think it was, that made reference to the
12 fact that it was adding votes. Every time you opened the
13 polls and did a printout there was an additional vote there.
14 And it needed to be reconciled somehow.

15 MS. LeVINE: What we were referring to is on the
16 front of the machine there is a counter that tells you how
17 many -- and we did not use it for any of our canvass
18 purposes. It's basically how many time, so you can kind of
19 keep track of how much paper is being used, and how many
20 times the machine is being used. So you'd, basically you'd
21 kind of rotate the machines out.

22 What I was concerned about was when we did open
23 every single day another number was added just by opening
24 the machine, not by having a vote. And that I'm not sure
25 has been addressed.

1 PANEL MEMBER REYNOLDS: So it was counting the
2 prints, how many print jobs it did as opposed --

3 MS. LeVINE: Right.

4 PANEL MEMBER REYNOLDS: -- to how many ballots
5 were actually being cast. Okay.

6 DR. CHUNG: It's power-up and power-down cycle
7 issues that we add isolation to that particular --

8 PANEL MEMBER REYNOLDS: So it has nothing to do
9 with the canvass, okay. I just wanted to check on that.

10 There's also the reference to the fleeing voter
11 and you know, the questions versus -- the person who
12 actually fled versus the person who had questions. And I
13 think those were answered in the machine. And I just wanted
14 to note that for the record.

15 Then there was a reference to the recount time,
16 and the fact that it's not an Avante issue, but it's just --
17 it took a long time.

18 MS. LeVINE: When I was doing the report I had to
19 be really careful to separate Avante issues from just plain
20 early voting issues in Sacramento County. This is our very
21 first time doing early voting.

22 A lot of our frustrations were early voting issues
23 not Avante issues. One of these was the canvass. When it
24 came time to do the 1 percent tally, rather than, you know,
25 just tally this against this, we actually sat down and said

1 how many ways can we tally. We wanted to make sure we
2 covered every single method so we would have a good and
3 complete report.

4 One of the problems we had, because it was a early
5 voting machine, rather than just a precinct machine, every
6 single race of the County was on that machine. So when we
7 tallied all the votes we had to tally for every single
8 contest in the County, rather than just those in one
9 precinct. That took a long time, because you know, the
10 votes were from Citrus Heights to Elk Grove, and, you know,
11 every race in between.

12 PANEL MEMBER REYNOLDS: So would that issue
13 disappear then if you used this system for everything?

14 MS. LeVINE: If we used the system --

15 PANEL MEMBER REYNOLDS: Or is it an integration
16 issue or is it --

17 MS. LeVINE: It's an early voting issue because of
18 the number of, you know, all the contests that were on it.
19 I'm not sure how the other early voting machines tallied,
20 but this was, like I say, we were trying it out so we tried
21 every single method we could find to tally.

22 It came out perfect every single time. But, like
23 I say, we wanted to make sure what would be the best way.
24 If we had to do it all over again, we have a lot of
25 suggestions on how to make it, you know, make some

1 procedures for early voting tally.

2 PANEL MEMBER REYNOLDS: Okay. And then if I could
3 just one last question?

4 CHAIRPERSON JENNINGS: Certainly.

5 PANEL MEMBER REYNOLDS: There's changes that are
6 being made in response to the experience. There's
7 suggestions that the County might have that might be global,
8 if you will, or pervasive with respect to DRE machines.

9 I want to hear what the County thinks and what the
10 vendor thinks about whether the changes that are going to be
11 made in response to this experience justify a further review
12 before the system gets certified.

13 I know what the answer is going to be, for the
14 vendor, at least. And I've kind of heard that, but I want
15 to give you one more chance to tell me. I know you've said
16 some of these are just setting changes, but I'd kind of like
17 to hear, in case I've missed anything, what the full
18 argument is.

19 MR. GALVIN: Well, our view is that the setting
20 changes that have been made since the system was fully
21 tested are minor. Most of them have to do with the length
22 of time that the prompt appears on the screen, or the length
23 of time that the vote is depressed.

24 Those issues don't go to the integrity of the
25 voting system or the counting process. And it was reported

1 to this Panel back on October 11th that the system passed
2 all the voting security tests. So in our view, no further
3 testing is necessary, given the minor adjustments that have
4 been made.

5 MS. LeVINE: I think from the County's viewpoint
6 the changes we'd make would be, you know, like the voter has
7 suggested, making it easier for the voter, making it easier
8 for us, are like you say, cosmetic changes.

9 The global changes I think would apply to all
10 machines as we learn more and more about them, you know, as
11 we -- how to report back; how to do the tally; how to do,
12 you know, how to do the setup. And that would apply more to
13 just plain early voting, not Avante-specific.

14 PANEL MEMBER REYNOLDS: Can I ask the Chairman
15 about whether this Panel has the ability, after having
16 approved a system for certification, to, you know, follow up
17 as you gain experience with things, and say, you know, let's
18 entertain the notion that there needs to be early voting
19 procedures, or whether there are guidelines or advisory or
20 actual hard-and-fast rules. Do you think --

21 CHAIRPERSON JENNINGS: Well, I would think that
22 this body will have to be as flexible as possible as we move
23 under this whole new area of certifying voting systems that
24 five years ago were not here for us, so the answer to that
25 is yes. Early voting is new. There's a lot of things that

1 are new. So we need that flexibility.

2 PANEL MEMBER TROUT: Mr. Chairman, on that point,
3 I think that's why we incorporated, a couple meetings ago, I
4 think, the administrative review process for these minor
5 changes, because --

6 CHAIRPERSON JENNINGS: Exactly.

7 PANEL MEMBER TROUT: -- I think we're the ones
8 that need to determine what's minor and what's major. And I
9 think under our current practice if another existing vendor
10 out there comes forward with changes similar as Avante's
11 coming in with this morning, that those would be reviewed by
12 staff and they would probably be used, reviewed
13 administratively under the system that we have set up. But
14 nevertheless, they would be reviewed by us to make sure that
15 they are, again, minor and cosmetic, and there's nothing
16 major that needs to go back and be tested and make sure it's
17 consistent with the procedures.

18 CHAIRPERSON JENNINGS: Thank you --

19 PANEL MEMBER TROUT: But I think we have done
20 that.

21 STAFF COUNSEL WOOD: Mr. Chairman, if I could,
22 just very briefly, I'm sure the Panel's aware that the
23 Secretary of State has a very broad authority under the
24 Elections Code, to conduct periodic review of systems. So,
25 certainly in conjunction with the kind of review that

1 Mr. Trout's indicating, the Panel should have full
2 confidence that any kind of review it wanted to conduct at
3 anytime of any previously approved system could be done.

4 CHAIRPERSON JENNINGS: Well, and that very fact
5 was revealed in that we've already decertified 45 systems in
6 this state, so we do have a lot of flexibility. But, thank
7 you, Mr. Trout, for going on the record with that. And, Mr.
8 Wood.

9 I have one other question and it has to do with
10 provisional voting. I ran into a little confusion as I was
11 reading the procedures just how the provisional voting
12 worked. I think I've got it right in that you're handed a
13 card as a provisional voter. You go ahead and vote and the
14 card records the vote. The card then comes out. The card
15 is put into a sealed envelope.

16 Am I correct? Is that -- and then once the
17 provisional voter is verified, then they open the envelope
18 and can use the card; they put it in the machine and it
19 records that particular vote. Is that the way it works? I
20 was a little confused in reading the procedures.

21 DR. CHUNG: Yes, that's exactly how it work. In
22 addition to that is that I think there's a misunderstanding
23 also is that even though the record is stored in the card,
24 that's the option we recommend for small number of
25 provisional votes. Because it would be easier; they don't

1 have to go back to a database, try to decipher.

2 The system do provide another option is that the
3 machine actually keep the card. In that case, both cases,
4 by the way, the provisional vote is stored in a separate
5 database in the system encrypted. There's two encryptions,
6 double encryptions to try to take it out, you have to do
7 electronically. So it's very inconvenient when have only
8 ten vote to decipher, so it's easier to have the card out,
9 it's easy to count those envelope cases.

10 That was what the County chooses that options.
11 They did have two options available to them.

12 CHAIRPERSON JENNINGS: Now, on the provisional
13 vote you then supply each polling place with a number of the
14 voter ID cards, right? And is that just like a set number?
15 You give them 100 cards per precinct in case they have that
16 many provisional voters?

17 DR. CHUNG: Actually the card, the VID card, what
18 we call VID card, is the same before they encode. When we
19 encode it for provisional it specifically say -- on this
20 provisional vote. So then we encode that into the card,
21 this is a provisional vote. That distinguish the card.

22 In the physical sense the County also then put a
23 blue sticker on it, so it is easier to tell.

24 CHAIRPERSON JENNINGS: I see, okay.

25 PANEL MEMBER MOTT-SMITH: Following up on that can

1 you show me in the procedures where those two pathways for
2 provisional ballots are enumerated?

3 MR. GALVIN: This goes to an issue that was raised
4 before about the procedures versus the manuals. And I would
5 like to address that briefly.

6 This system, like other systems, has a variety of
7 features. And as the vendor, what we have to decide is what
8 should be explained where.

9 Before the October 11th meeting we provided to the
10 Panel the manuals that go with this system. And I believe
11 there were seven manuals. And these are over and above the
12 procedures. So they have more detail about how the system
13 works.

14 And the issue is to what extent do you include all
15 the aspects that are in the manual, all of those details in
16 the procedures. And we made our best effort to draft the
17 procedures and include what we thought were the key items,
18 knowing that the manuals would always be there for the
19 county, as backup.

20 These issues about the options with provisional
21 ballots are addressed in the manuals as noted in Mr. Chung's
22 letter from last week. At the moment they're not in the
23 procedures and this wasn't pointed out to us until last
24 week.

25 So certainly it could be added to the procedures, but

1 our approach was before the October 11th meeting to provide
2 the procedures and to provide all the backup manuals to the
3 Panel. And if now the issue is that some of the text needs
4 to be carried over from the manuals into the procedures,
5 certainly that can be done.

6 But, I mean that's the fundamental problem here is
7 that you don't want to have as your procedures 500 pages
8 that include everything that's in the manuals. You have to
9 make some choices there. And we made choices. And if the
10 feedback is that additional things should be moved from the
11 manuals to the procedures, we can do that.

12 But since we submitted the procedures back on
13 September 16th, we would hope that the Panel could proceed
14 and consider the system today.

15 PANEL MEMBER TROUT: Mr. Chairman, on that point I
16 think that, you know, staff pointed out a number of
17 questions after reviewing the tape of issues that came up of
18 questions of things that the procedures were lacking at the
19 October 11th meeting.

20 And it looks like from staff's report that only a
21 couple of those were dealt with and many of them were just
22 not included in the new procedures that were submitted on
23 November 5th.

24 And so, you know, I'm not sure how much weight to
25 give to that previous statement. We do have -- there has

1 been an opportunity for Avante to upgrade, or include that
2 into their procedures. And, you know, I acknowledge that
3 this is probably a new process for them. And I know we
4 provided samples of other procedures.

5 So I think the record's pretty straight on what
6 we've been asking for and what needs to be included in the
7 procedures, and what has to be included in the procedures,
8 from my point of view.

9 PANEL MEMBER MOTT-SMITH: I would, you know, your
10 statement was basically is it a precondition for action
11 today. I don't personally think it is. But the point I'm
12 going to continually try and make to you and to Mr. Chung
13 and to Mr. Byrne is that we certify the procedures that are
14 the Voting Systems Panel procedures for use in the system in
15 California. We don't certify your manuals.

16 So if the procedures specify one pathway, as they
17 do for provisional voting, or if they specify one pathway
18 for the receipt, that's what we have certified. And use of
19 anything else anywhere else is not a valid use.

20 So we do need to have an understanding, and I'm
21 not trying to fault you guys for this because I know you've
22 gone back and forth on the procedures many times, but the
23 procedures have to reflect how the system's going to be used
24 in any county where it's being used.

25 It's not that you have this set of procedures and

1 then the manual says, oh, you can flip this switch and do
2 something else. That's not how it works.

3 MR. GALVIN: Well, our view is that the
4 procedures, as revised, in light of Mr. Naegele's comments,
5 which was really the only formal set of feedback that we got
6 on the procedures that were submitted September 16th, that
7 the procedures, as revised, are complete and should be
8 certified. And we certainly will follow those procedures.
9 And if we look at those procedures and would like to add
10 options, we would come back to the Panel and make that
11 request.

12 But we are -- our request today is that the system
13 be certified with the procedures we submitted on November
14 5th.

15 CHAIRPERSON JENNINGS: Thank you. John, do you
16 have other questions?

17 PANEL MEMBER MOTT-SMITH: Actually I have a series
18 of questions. Primarily for Ms. LeVine. She's our only
19 expert, I think, on this system in terms of the elections
20 community.

21 You've been through the whole process, start to
22 finish, with these guys. You have characterized in your
23 report to us that this was a success and that you are
24 satisfied that the system met the requirements, et cetera.

25 I wonder, we can either -- I'd sort of like you to

1 walk us through each step of the process. Now, you can
2 either do that in response to the questions that I ask you,
3 or I'm looking at beginning with acceptance testing all the
4 way through the official canvass. What were in between, the
5 opening of the polls, the closing of the polls, the training
6 of the poll workers, provisional ballots, write-ins.

7 I'd basically like you to walk us through the
8 whole system if you could.

9 MS. LeVINE: I don't know if I want to remember
10 everything at this point. You know, it's like an election,
11 once it's over with you try to say, okay, it's over. Okay.

12 From the beginning, the acceptance test, I think
13 that's where we need to start. We asked for 30 machines.
14 And at that point Lou from your office was there to do the
15 acceptance test on the machines when they arrived, all 30 of
16 them.

17 Avante basically lived with us for about a month.
18 In response to any of our questions and in our training,
19 they were there to help us with training. They participated
20 in all aspects of the training. Not only just the Avante
21 training, they participated also in the poll worker
22 training, to help us train our poll workers.

23 A lot of it was just training on our particular
24 system, but they were there. And that was a great back-up
25 because they were trained. And so it was kind of a double,

1 you know, they were trained in our system, we were trained
2 in their system, so no matter what happened everybody knew
3 what was going on.

4 We relied on them heavily in the polling places.
5 For the polling places, themselves, a lot of the decisions
6 happened as we walked through, you know. Such as the
7 checking the receipts, you know. What happened was we
8 realized how long the ballot was. These are things that we
9 had not even thought about, about how long the ballot might
10 be, how it would, you know, go into the tray. Those type of
11 things.

12 So, as we actually saw it happen, you know, those
13 are the things that we had to adjust. And then when we
14 realized what was happening, then we adjusted again.

15 Most of it was, like I say, early voting
16 procedures for Sacramento County. It was something brand
17 new for us, you know, how do we get the machines out, how do
18 we get the training done, how many hours should we be
19 opened, those type of things.

20 Avante came through. They supplied us with a
21 qualified person at each polling place for the entire length
22 of time we were open. And on weekends, as we shifted, there
23 were sometimes two people. And there was actually some
24 rovers that actually came around. They were available by
25 phone call at all times. Any problems we had were solved by

1 their staff if it was that type of, you know, if it was an
2 Avante problem.

3 If it was a voting problem, we, you know, we had
4 to call the office. Or, you know, we had our staff trained
5 to handle those particular problems.

6 At the conclusion we did, you know, all the
7 accounting. I can say that it was seamless. It worked
8 excellent. And, you know, that's where I was most concerned
9 about how to get the ballots out of this machine into our
10 machine. And it worked very well.

11 I can tell you at the beginning we had a problem
12 with our particular, the way we had programmed our machines,
13 our ballot counting program and our election. These were
14 some things that we had done, and when we explained them to
15 Avante, it was going to cause them problems, because of the
16 way that they would have to adjust for what we had done.

17 They managed to do it, which was, to me, showed a
18 lot of commitment on their part at that point. That they
19 were able to see the entire election process, know enough
20 about the election process to change and adapt and make it
21 work and help us out.

22 There was frustrations many times, you know, when
23 we were, I don't want to say butting heads, but, you know,
24 different methods and different thoughts. Timelines, you
25 know, we were all being pushed for time. Sacramento County

1 was doing double duty where we're doing basically two
2 elections at the same time. We're doing the early voting
3 election and then, of course, the November election.

4 And so our staff was pulled and taxed definitely
5 in two different directions. But that would happen with any
6 early voting. So, once again, it's like I have -- we have
7 to be really careful to separate early voting problems with
8 just Avante problems.

9 And the conclusion, doing the provisional ballots
10 after they were verified, they went in seamlessly, also. It
11 was very easy to do that. And then we got the reports out,
12 a multitude of reports. Which way do you want it, you know.
13 Do you want it this way, this way, this way or this way.

14 And that's what we did at the end. We tallied as
15 many different types of reports from the different memories
16 to make sure that we were going the right direction.

17 And, yeah, there's going to be a lot of things
18 learned and a lot of things changed. But mostly early
19 voting.

20 PANEL MEMBER MOTT-SMITH: Opening the polls, did
21 you use any of the wireless technology to open or close your
22 polls?

23 MS. LEVINE: I don't know. I wasn't there for
24 that.

25 PANEL MEMBER MOTT-SMITH: Yes, you did?

1 MR. BYRNE: Yes, we used wireless technology to
2 load -- John Byrne, Avante. What we did is we used the
3 wireless technology to load the ballots onto the voting
4 machines at the County office.

5 The wireless was not used to actually, to open the
6 polls once they were at the voting sites. We also used the
7 wireless technology to consolidate, to tally each machine
8 and consolidate the tallies at the County office.

9 So it was only used to load ballots, and to do
10 each individual machine tally and consolidate the tallies at
11 the County offices.

12 PANEL MEMBER MOTT-SMITH: Did you do any curbside
13 voting?

14 MR. BYRNE: I don't think we did any where we had
15 a honking horn out to the curb.

16 MS. LeVINE: We did not use the curbside voting
17 for curbside voting. We did use it for some of the
18 disabled in the wheelchairs so they could hold it actually
19 on their lap.

20 So, yes, the system was used, but not for curbside.
21

22 PANEL MEMBER MOTT-SMITH: Okay. In terms of the
23 weight of the machine, for me it's not just an issue of the
24 weight, it's the size, as well, the bulkiness. Did any of
25 the average poll workers try to lift or move machines

1 around?

2 MS. LeVINE: When they did they used two. We
3 encouraged them to use one person on each side. At the
4 different sites, each one of them were basically locked up
5 differently at night. Some had, you know, very good
6 security. Like the Sunrise Mall we had our very own secure
7 closet where we could just wheel them in. And that wasn't a
8 problem.

9 At the Market Square we actually had to go
10 downstairs to get to our secure place. And that, you know,
11 that's why it took 45 minutes to close that poll. And we
12 used carts for that. But we had two people, one on each
13 side, to lift them, put them on the carts, and then take
14 them down.

15 PANEL MEMBER MOTT-SMITH: In a regular polling
16 place environment where you deliver the machine to an
17 inspector, did you get any feedback from them in terms of
18 whether that would be difficult for them to move it from
19 their house to the polling place?

20 MS. LeVINE: Yes. It would be difficult.

21 PANEL MEMBER MOTT-SMITH: Logic and accuracy
22 tests?

23 MS. LeVINE: No problems.

24 PANEL MEMBER MOTT-SMITH: Post-election, the
25 procedures specified post-election logic and accuracy 10

1 percent of the machines. Is that accurate? Or is that
2 sufficient for you to consider that the machines have
3 operated accurately?

4 MS. LeVINE: Yes. Would you like -- Ida Bryans is
5 here from our IT section, if you'd like to --

6 PANEL MEMBER MOTT-SMITH: I'd love to, if Ida
7 would like to.

8 MS. BRYANS: I'll let Lisa --

9 CHAIRPERSON JENNINGS: Lisa, please introduce
10 yourself and your position.

11 MS. BRABO: I'm Lisa Brabo; I'm part of the IT
12 Staff for Sacramento County.

13 And we did the logic and accuracy on all of them
14 before and after. It was a smooth procedure. It wasn't
15 that difficult.

16 And, again, because we had the printed receipts,
17 we had the ballot images, the actual ballot images we could
18 print out for logic and accuracy. Plus we had all the
19 tallies. It wasn't a problem.

20 PANEL MEMBER MOTT-SMITH: Okay, and I guess I'm
21 asking you to extrapolate. You have a machine, several
22 machines in every polling place. Is it sufficient for you
23 to feel that your election was accurate to only require 10
24 percent post-election logic and accuracy testing?

25 MS. BRABO: Post-election, yes. Pre-election, no.

1 PANEL MEMBER MOTT-SMITH: Language conversion. I
2 don't know who to ask the question to exactly, but I'm
3 interested in were there any issues that you had in terms of
4 language conversion, understanding that a condition of the
5 initial certification was that you not rely on the automated
6 language conversion process.

7 MS. LeVINE: We did not rely on the automated
8 conversion. We actually had our own translator. And then
9 it was entered in from there, court-certified.

10 PANEL MEMBER MOTT-SMITH: You didn't use the
11 functionality of the machine? Or you used the machine to
12 get you started and then had the --

13 MS. LeVINE: We used the machine to get us
14 started, and then it was proofed by a court translator and
15 corrections were made, --

16 PANEL MEMBER MOTT-SMITH: And the court --

17 MS. LeVINE: -- as necessary.

18 PANEL MEMBER MOTT-SMITH: -- translator, did you
19 get any feedback in terms of the initial automated
20 translation?

21 MS. LeVINE: It needs to be improved. But, you
22 know, you got to put in the court -- I don't want to say the
23 court words -- the election words, you know, to make sure
24 those go smooth. So.

25 PANEL MEMBER MOTT-SMITH: Same question pretty

1 much on the automated rotation. Did you use that
2 functionality?

3 MS. BRABO: No, we did not, we did not use it
4 officially for the election. But we did test the automated
5 rotation. Completely tested it.

6 PANEL MEMBER MOTT-SMITH: And?

7 MS. BRABO: I was impressed. Very impressed.
8 I've not ever seen that before. I don't know if the other
9 systems have it, but I've never seen it. And it -- we
10 tested it and we proofed it, and it matched what we had.

11 PANEL MEMBER MOTT-SMITH: Going to make your life
12 easier?

13 MS. BRABO: Oh, I can't even explain how much
14 easier.

15 PANEL MEMBER MOTT-SMITH: And then one issue that
16 you seem to bring up in your report to us is the secrecy
17 issue from the voter's point of view. And obviously the
18 vendor has proposed ways of screening that, et cetera, but
19 some of your survey responses indicated that people weren't
20 comfortable that people could see how they were voting, et
21 cetera. Can you sort of calibrate that concern?

22 MS. LeVINE: That concern is because the receipt
23 prints out. And if the machines are too close together, one
24 standing, a voter at one machine can actually view the other
25 person's votes.

1 What we did was to move the machines apart where
2 there was room. And when there was not room, we closed the
3 middle machine down to make room. The voter may have to
4 stand in line a little bit longer, but it allowed more space
5 in between.

6 Our suggestion was maybe make the sides of the
7 plastic whatever it's called, maybe make them opaque or
8 coverup so the only way you could see it is if you were
9 looking directly at it, so you couldn't see it from the
10 side. Because there will be times when we'll have to put
11 the machines closer together. With early voting we had the
12 luxury of being able to put them further apart.

13 PANEL MEMBER MOTT-SMITH: So in your opinion is it
14 a solvable problem?

15 MS. LeVINE: Yes.

16 PANEL MEMBER MOTT-SMITH: The write-in process.
17 Were there any difficulties or --

18 MS. LeVINE: There were no difficulties. That
19 went really smooth. And our write-in board loved it because
20 it had one report where they didn't have to go back through
21 each one.

22 PANEL MEMBER MOTT-SMITH: My last question, I
23 think, and that's if you had a machine failure, did you have
24 paper ballots of any --

25 MS. LeVINE: No.

1 PANEL MEMBER MOTT-SMITH: -- shape or form at the
2 polling place? So, if you had an equipment, a massive,
3 every-machine-failed situation, -- if you did have that, I
4 guess then I would ask you, would you consider that to be a
5 prudent backup?

6 MS. LeVINE: For early voting, since it is not
7 required, we would have just encouraged, you know, we would
8 say, you don't have to vote here today.

9 If it was in a polling place, yes, we would need a
10 backup for that because that is election day and that is
11 their last chance to vote.

12 PANEL MEMBER MOTT-SMITH: Okay.

13 CHAIRPERSON JENNINGS: Thank you, John. Do we
14 have -- Bernard, do you have any questions?

15 PANEL MEMBER SORIANO: Yes. I have two questions.
16 And I guess they could be addressed to either Sacramento
17 County or the vendor, or even Dawn.

18 The first one has to do with Sacramento County.
19 The report that you have speaks to the experiences for early
20 voting, and I know that this was a new experience for all of
21 you, but you relied on the vendor quite heavily. Does that
22 cause you any concern in terms of the future? And how much
23 you relied on them to conduct the early voting.

24 MS. LeVINE: Well, yes, we relied on the vendor
25 heavily. It was a learning process for both of us at the

1 same time. I think what we have learned we will not need to
2 rely as heavily on the vendor next time.

3 We've learned a lot; we're going to put a lot of
4 new things, you know, just procedures, you know, how to
5 handle an early voting site. So it was great the first
6 time, and, yes, we'll probably be weaning our way away from
7 them as we go through.

8 DR. CHUNG: To supplement your question, actually
9 what we did is diligently tell all our people is we will
10 help them the first day of the election of the ten-day. The
11 second day on this we will be observer, for most part.

12 Almost five out of six location that was the case.
13 Except one person on the staff was too eager to solve every
14 case, so after the first day, opening and closing poll was
15 all done by the poll workers.

16 PANEL MEMBER SORIANO: The second question had to
17 do with a editorial in The Sacramento Bee, that came up,
18 with regard to the voter experience. Any comments from any
19 of the three on that editorial?

20 MR. GALVIN: If I remember correctly, one of the
21 points raised in that editorial was the issue of the screen
22 prompt, that "please make your selection" popped up too
23 quickly. And that is one of the concerns that we addressed.

24 The other issue, I believe, in the editorial
25 involved the visibility of the paper record. And that

1 issue, well, this machine has the paper record in a certain
2 location. We believe it's adequately visible to the voters.
3 We are evaluating possibly other designs that might have the
4 paper record in a different place, perhaps as part of a two-
5 part machine.

6 But we think that the paper record, in its current
7 location, is adequately visible. The primary way that the
8 voter checks the vote is through the screen. They can, as
9 you saw during the demonstration, the voter can press a
10 button to check their vote at any point in time. And all of
11 the votes are clearly indicated.

12 So, that paper record really is a secondary backup
13 to the screen.

14 MS. MEHLHAFF: Just a summary for the Panel
15 Members who did not read it, and that's correct, it did talk
16 about some of those issues.

17 And basically the gist of the article was that the
18 person who wrote the article, quote, "Sacramento County's
19 Touch-Screen Voting Experiment wasn't nearly as voter
20 friendly as I expected it to be" had the issues with
21 controlling the pace of voting. The scroll bar was brought
22 up. And according to this article, the paper trail was the
23 most disappointing feature of all. And, you know, as he
24 touched on just as far as visibility. So, just felt that it
25 needed some work, based on the commentary.

1 PANEL MEMBER SORIANO: Thank you.

2 CHAIRPERSON JENNINGS: I'm sorry, did you finish
3 your questions, Bernard?

4 PANEL MEMBER SORIANO: Yes.

5 CHAIRPERSON JENNINGS: Thank you. Mr. Trout, do
6 you have any other additional questions?

7 PANEL MEMBER TROUT: No, Mr. Chairman.

8 CHAIRPERSON JENNINGS: Chris, do you have any
9 further questions?

10 PANEL MEMBER REYNOLDS: No.

11 CHAIRPERSON JENNINGS: Do we have any questions
12 from the general audience? Any comments from the general
13 audience? Kim.

14 Please introduce yourself, Kim.

15 MS. ALEXANDER: Sure. Kim Alexander with the
16 California Voter Foundation.

17 I cast my first live digital ballot on the Avante
18 Voting System next door in the Museum. And I wanted to just
19 share with you a little bit about that experience; and to
20 tell you that I think that the changes that they made to the
21 interface are really good.

22 The issues that I had with the design were similar
23 to the ones that were described in The Bee editorial. And
24 it seems that the company has made a genuine effort to
25 address those kinds of design issues.

1 I am very very pleased that there is any voting
2 machine in California that generates a voter-verified paper
3 trail. This is a really important development, as many of
4 you know, I've been concerned about this and writing about
5 this for awhile.

6 And I think that we, as the election community,
7 need to spend some more time thinking through what that
8 paper trail needs to be; how that feature needs to work. I
9 think it's a feature that's going to become more popular as
10 we get further and further into electronic voting. And it's
11 important that the certification process drives the vendors,
12 rather than the vendors driving the certification.

13 And I think that a lot of the questions that Chris
14 Reynolds has been raising get to the heart of that concern
15 that I have, that we all need to spend a lot more time
16 thinking through the role of the paper trail and how we
17 incorporate that into voting machines and voting systems in
18 California.

19 So I volunteer to be available to you in that
20 endeavor. And to continue working with you all on this.
21 And I appreciate all the good thoughts that you're bringing
22 up here, and the questions that you're putting to Sacramento
23 County and to Avante.

24 And if you have any questions of me about my
25 voting experience I'm happy to answer them.

1 CHAIRPERSON JENNINGS: I guess we don't. Thank
2 you very much, Kim.

3 Any other comments from the audience? Do we have
4 any comments from the vendor just in general? Mr. Galvin.

5 MR. GALVIN: One last comment, and that is that I
6 think at the last meeting it was clear from Mr. Dedier's
7 comments on the record that the system had been technically
8 tested and met the Election Codes requirements. I think he
9 used the words in every aspect. So I think that that's out
10 of the way.

11 And what the issues that really -- the issue
12 that's really now before the Panel, I believe, is whether
13 the Sacramento County experience validated or justified the
14 certification of this equipment.

15 And I believe that hearing from Ms. LeVine and
16 seeing the numbers associated with that early vote, and
17 seeing the positive voter commentary, I think there's strong
18 validation for the Avante System. Ninety percent
19 satisfaction with the system, high satisfaction. Voters who
20 said that the system was great. I think that provides a
21 very strong message that this system should be certified for
22 full use in California.

23 Thank you.

24 CHAIRPERSON JENNINGS: Thank you, Mr. Galvin.
25 Well, we have a system now that the Avante Vote-Trakker

1 System has gone through testing at the national level. Wyle
2 Labs has given its approval. The NES -- System has -- or
3 group has approved it. We had our own voting systems
4 analyst approve it, as well as our consultant, Robert
5 Naegele, Technologies.

6 We also put some conditions on the last motion
7 that we made with respect to the use of the Avante System
8 and the early voting process here in Sacramento. You have
9 met those conditions. And I think we do have some questions
10 with respect to the procedures manual actually matching up
11 with the system as it has been modified to meet some of the
12 experiences that came about as a result of the early voting,
13 that ten-day voting, early voting period in Sacramento
14 County.

15 So, with that, I think we've heard all the
16 testimony and I'm prepared to at least -- are there any
17 members of the Panel that would like to offer a motion for
18 certification at this time?

19 PANEL MEMBER MOTT-SMITH: Yeah, I will do that.
20 And I'll give my reasons afterwards. But I would move
21 certification of the Avante Vote Trakker System as it was
22 presented to us on October 11th; the modifications that are
23 here before us today are, in my view, subject to a secondary
24 request for certification.

25 Along with that would be the standard conditions,

1 the required findings that, actually it's in item 1 from the
2 last report which basically says that the Voting Systems
3 Panel finds that the system meets the conditions for
4 approval and certification, et cetera.

5 And those other conditions which were not specific
6 to either early voting or to Sacramento County would also be
7 incorporated by reference.

8 And if I get a second I'll explain why I made the
9 motion.

10 CHAIRPERSON JENNINGS: Do I have a second to that
11 motion?

12 PANEL MEMBER REYNOLDS: I'll second the motion.

13 CHAIRPERSON JENNINGS: Seconded by Chris Reynolds.
14 Just open this for discussion then. Go ahead, John.

15 PANEL MEMBER MOTT-SMITH: Basically I do believe
16 it's important that there be a machine that produces a paper
17 record in the competitive environment. In the current
18 environment for voting systems in California the system has
19 been approved by Wyle, it's been approved by our consultant.
20 It was identified in our October 11th staff report as
21 meeting all of the requirements for accuracy and security.

22 The Advisory Committee, though they had concerns
23 and voiced some of them, basically said that the system was
24 okay. The National Federation for the Blind made a similar
25 recommendation. I'm impressed by the error rate, quote,

1 error rate data that has generated out of this early voting
2 experiment. The numbers are compelling in terms of the
3 possibility to reduce the amount of error for voters.

4 And finally, I guess I wanted Sacramento County to
5 be on the record as our expert for their initial experience
6 with this, because their report, their feedback is pretty
7 uniformly positive, with a few areas obviously for room for
8 improvement.

9 They are the people who have to implement this, or
10 they represent the people who have to implement this, and
11 their recommendation was very strong in terms of a positive
12 and move forward.

13 In terms of the procedures, I want to reiterate, I
14 know I've said it twice, but -- and it's not specific to
15 Avante, everyone of the vendors tends to look at the
16 procedures as a nuisance and something that they have to get
17 by. They're not.

18 In the end, when it matters, those are the things
19 that we're going to hold the counties to. The counties need
20 to understand that; the vendors need to understand that.

21 We need, post this election we can adopt the
22 procedures that we've got, but we need an understanding that
23 that process is going to generate a lot of change to those
24 procedures before they're used again in California.

25 And that's it.

1 CHAIRPERSON JENNINGS: Thank you. Mr. Reynolds.

2 PANEL MEMBER REYNOLDS: Quickly, since I seconded
3 the motion. I'm reminding myself not to make perfection an
4 enemy of the good.

5 So there are some things about the experience and
6 what we have in front of us that are positive. The testing,
7 the tallies, the fact that they studied this several
8 different ways and the tallies came up right. The survey
9 results; it's all very positive. The County's experience
10 was positive.

11 What bothers me most is that we don't have
12 procedures for the modifications, all of which, I think, are
13 positive changes that are made as a result of the
14 experience. And yet we don't have those procedures tested
15 against the system, the system tested against those
16 procedures.

17 And I think there are other things that could be
18 done like trying to magnify that front viewing screen on
19 your plastic cover, so that if your print is small, you've
20 indicated, well, we think it's accessible and viewable that
21 way, but maybe there's a way to magnify it to make it look
22 bigger for the person who's viewing the paper record. Just
23 things like that.

24 And I'd like to ask a question after we take our
25 vote, whatever the outcome of that vote is, to find out

1 about whether the modifications, it's possible for the
2 modifications to be looked at from a legal perspective and
3 from a technical staff perspective. And a determination can
4 be made whether those modifications are of a nature that can
5 be improved administratively.

6 Because they have been characterized as cosmetic,
7 but I think they're all positive. And so I'd like to see
8 those incorporated as quickly as possible, because I think
9 they will be selling points for customers.

10 CHAIRPERSON JENNINGS: Well, to answer your
11 question, Chris, the answer to that is yes. There have been
12 a number of modifications to other system that we have
13 simply administratively approved. So, yes, we can do that.
14 And we do look at that. And if they are truly cosmetic
15 changes we just run it through as a administrative approved
16 modification.

17 All right, do we have any other comments?

18 PANEL MEMBER TROUT: Mr. Chairman, I'd just like
19 to echo everything that John and Chris have said up to
20 John's last point. And I think that's where he and I
21 disagree. But I think there's no technical issues with the
22 machine. I think that it will and can work. That all of
23 the changes that have been made post the trial in Sacramento
24 County are all for the good.

25 My hang-up, as always, is the procedures. And

1 that's what we're going to have to fall back on if something
2 breaks down. And if we take this out on a wide basis and
3 we've got poll workers running this, they're the ones that
4 are going to have -- they're going to have to go someplace
5 to figure out what to do.

6 And I'm just not comfortable voting for anything
7 where we don't have procedures locked down. Because that's
8 where we're going to come into legal problems; that's where
9 we're going to have problems administering the election.

10 And, you know, I think things are going to be -- I
11 think we're close there. I think part of our problem here
12 is that staff hasn't reviewed the system in conjunction with
13 the procedures in order to be able to give Avante the
14 specific feedback that they need.

15 And so if this motion is not successful I have an
16 alternative motion that we can go forward with that might be
17 able to address that.

18 But, I'm just, again, I think the system is
19 technically fine. My only concern is with the procedures.
20 We need to have those locked down so that we know what
21 happens in case anything pops up, any problems happen.

22 In this trial election we had, you know, vendor
23 people and County people there. If this goes statewide
24 we've got poll workers that are going to have to be making
25 these decisions that don't have the expertise that the

1 vendor and the County election folks have.

2 And so I just can't vote to support anything that
3 we don't have locked down procedures on. And understand
4 that John and I disagree on that point. But, you know,
5 everything else he said I agree with. And so at this point
6 I can't support that motion.

7 CHAIRPERSON JENNINGS: Thank you.

8 PANEL MEMBER MOTT-SMITH: Can I add one thing.
9 Maybe it'll help Steve. Or maybe he can help us at the end
10 by telling us what might be in his motion if this one
11 doesn't succeed.

12 We don't have locked down procedures for any
13 voting system. We're in the process of revising every one
14 of them based on the information that we get from the
15 experience elections officials have in an election.

16 What we do have here is a starting point that is
17 weak in significant areas, I think. But to the extent that
18 we know what needs to be done to them, based on the
19 experience with Sacramento County, we can accomplish that
20 through this motion, I think.

21 We will then, once we do that, be in the same
22 position with them that we're in with everyone else, and
23 that's that one of the conditions of the standard conditions
24 is that they report to us every problem that they have with
25 a machine that they have installed anywhere. And we use

1 that as feedback to continually upgrade and update the
2 procedures.

3 So, if that helps you, good. If not, maybe you
4 should just tell us what you're substitute motion is, or
5 just what --

6 PANEL MEMBER TROUT: Let me just address that,
7 because I think maybe locked down is probably the wrong term
8 and I shouldn't have used that. But what we need is to be
9 able to address, we need the procedures to address anything
10 that may pop up.

11 And, you know, you've identified some; I
12 identified some at the last meeting. Those still haven't
13 been incorporated into the procedures. And so therefore
14 there would be a void there if something were to pop up with
15 respect to the printed ballot or some of the other things
16 that you and I listed, and that were also in the staff
17 report.

18 And so I think we've identified those. We need to
19 have answer to those. We can have that. You know, it's
20 just a question of are we willing to certify this system and
21 then trust that those changes will be made later. Or should
22 we require that we have answers to those questions and have
23 those procedures in place to be able to fill those gaps
24 prior to the certification.

25 PANEL MEMBER REYNOLDS: Mr. Chairman, in the

1 interest of unanimity, I was going to ask whether
2 procedurally it would be possible to hear Mr. Trout's
3 substitute motion, if you will, at this time? I know we
4 have a motion that's on the floor, but I don't know
5 procedurally whether we have an opportunity to hear any
6 additions that he would like to make to the motion.

7 CHAIRPERSON JENNINGS: Well, he couldn't present
8 the motion, but he could certainly describe it.

9 PANEL MEMBER TROUT: I can tell you what my
10 thought would be in pondering a future motion, if necessary.
11 And that would be for -- because I think what Avante is
12 looking for today is a certification of the system with the
13 new modifications is what Mr. Galvin represented to us.

14 And so what I would suggest is something that
15 would bring about Avante submitting those procedures to
16 staff to review them, make sure there's nothing that needs
17 to be technically checked, which I don't think there is. I
18 think, as I say, they're cosmetic and there's nothing that
19 we need to go back for technical checking.

20 And so have them provide those modifications along
21 with any changes to their procedures that they would want to
22 do; have them submit that to staff.

23 And then the second part of that would be staff
24 would go forward and review the modified system with the
25 procedures submitted. And then make sure that everything's

1 consistent there, and there aren't any holes. And if there
2 are any holes in the procedures at that point, staff would
3 direct, in writing, those concerns to Avante. And they'd
4 have an opportunity to see in writing what our concerns were
5 and what needed to be changed in order to satisfy staff, and
6 enable her to make a recommendation of full certification.

7 Because I think what, you know, we're forgetting,
8 too, is our staff, in this meeting, said that she wasn't
9 comfortable recommending full certification. And that's
10 something else that's on the table.

11 So, pretty much that's the brunt of any subsequent
12 motions that I would make, would be that Avante submit the
13 modified system, along with their procedures. We test the
14 new system against the procedures. If there's any holes,
15 staff notifies Avante in writing of what those are. They
16 have an opportunity to fix those. Then they come to us for
17 full certification.

18 CHAIRPERSON JENNINGS: Mr. Gutierrez?

19 PANEL MEMBER GUTIERREZ: Mr. Chairman, on staff's
20 recommendation of the October 7th meeting on page 7, as part
21 of Lou's recommendation to us on Avante, his item (g) that
22 says that the applicant, within 90 days of this approval,
23 will provide procedures for use of the Vote Trakker Voting
24 System, that could be substituted to be updates, in the
25 template and format specified by the Secretary of State.

1 These procedures will be reviewed by the Secretary of
2 State's consultant, and must receive approval from the
3 Voting Systems Panel prior to any subsequent use in
4 California.

5 Is this something that Avante could live with?
6 That gets right to what Steve just said, too.

7 PANEL MEMBER TROUT: Well, I don't think that's
8 what was -- that's not what was adopted at the October 11th
9 meeting.

10 PANEL MEMBER GUTIERREZ: I didn't suggest it was.
11 I'm asking is this the -- that they can live with that.

12 PANEL MEMBER MOTT-SMITH: But it was adopted at
13 the October 11th meeting. And they have submitted the
14 template procedures. They have been reviewed by the
15 consultant. They are still, for various reasons, not as
16 complete as they should be.

17 Steve is suggesting we withhold certification, I
18 think, and look at the modified system. I'm saying let's
19 take this system that we've got; and we have a requirement
20 that the procedures be modified to incorporate every one of
21 our concerns.

22 We can put a date specific on that. And that
23 would -- that would be one thing --

24 PANEL MEMBER GUTIERREZ: Or, John, --

25 PANEL MEMBER MOTT-SMITH: -- the other thing would

1 be, in terms of yours, once they come back with a second
2 motion, they still have to come back with procedures for the
3 second -- for the modification.

4 PANEL MEMBER TROUT: But I guess what I'm saying
5 is if those procedures come back in 30 days or 45 or 90
6 days, or whatever time certain we put on those, and they're
7 not acceptable to us, and we have further problems with
8 them, do we then de-certify the Avante, and then make them
9 come back and go through the whole testing again? I don't
10 think that's good for the process.

11 And that's why I'd rather get the procedures up
12 front rather than approving the system; having the
13 procedures come back in; and then having to undo what we
14 did, only to start over again. And I don't think that's
15 good for the process.

16 PANEL MEMBER GUTIERREZ: John, I'm confused. Did
17 you embody (g) in your motion?

18 PANEL MEMBER MOTT-SMITH: No -- yes, --

19 CHAIRPERSON JENNINGS: Yes.

20 PANEL MEMBER MOTT-SMITH: -- though I didn't put a
21 date on it.

22 PANEL MEMBER GUTIERREZ: Is it conditional, the
23 subsequent use in California's conditional upon them meeting
24 the requirements of staff?

25 PANEL MEMBER MOTT-SMITH: Yes.

1 PANEL MEMBER GUTIERREZ: Well, I call for the
2 vote, then.

3 MR. GALVIN: I do have one question about the
4 motion. And that's just a point of clarification. I
5 believe Mr. Mott-Smith said that he would move certification
6 of the Vote Trakker as presented on October 11, 2002, which
7 I understand to mean that the system will not have the new
8 features that we demonstrated today, which we can propose
9 subsequently perhaps on an administrative level.

10 But with regard to what procedures are before the
11 Panel now I believe that the procedures should be the
12 November 5th procedures which we submitted after discussing
13 the matter with the Panel's consultants.

14 So, I understand the logical approach to be the
15 system as it existed on October 11th with the November 5
16 procedures.

17 PANEL MEMBER MOTT-SMITH: That's correct.

18 MR. GALVIN: Thank you. And on the order of
19 administrative review, Avante certainly is willing to
20 continue to have discussions with staff, and to submit
21 revised procedures. Hopefully if staff deems that they are
22 cosmetic in nature, they could be accepted without a formal
23 Panel meeting, which I think is perhaps especially
24 important, given the reality of the administrative change
25 and uncertainty about when the Panel might be able to

1 convene again.

2 CHAIRPERSON JENNINGS: Thank you, Mr. Galvin. Do
3 we have any other discussion, Members of the Panel?

4 If not, we'll all for the vote.

5 All in favor of the certification motion as
6 presented by Mr. Mott-Smith and seconded by Mr. Reynolds,
7 please say aye.

8 (Ayes.)

9 CHAIRPERSON JENNINGS: Opposed, same sign?

10 PANEL MEMBER TROUT: No.

11 CHAIRPERSON JENNINGS: Please record that Mr.
12 Trout voted no.

13 PANEL MEMBER REYNOLDS: And I do have one
14 question. Now might be the appropriate time, later might be
15 more appropriate, I'm not sure.

16 Is it possible to ask our consultant to undertake
17 some questions about global interface issues, global early
18 voting issues, and global paper record issues, if you will?
19 And just keep them at her fingertips. Because I think that
20 there are a number of questions that are going to be
21 universal to voting systems along those lines that are going
22 to need to be addressed at some point.

23 I don't know what all the questions are, even, but
24 just to kind of begin to compile some information for the
25 Voting Systems Panel to maybe adopt some universal rules at

1 some stage.

2 Thank you.

3 CHAIRPERSON JENNINGS: Thank you, Chris. Okay,
4 we'll move to the second item on the agenda.

5 MS. MEHLHAFF: The second item was modifications
6 to Sequoia's Voting System, the Edge. Basically those were
7 cosmetic changes. They submitted them, and that was taken
8 care of administratively.

9 The information is in your binder, just for your
10 information. But no action needs to be taken. The Chair
11 took appropriate action.

12 The same with item number 3, which was a
13 modification to DFM's BCWin software. Same thing.
14 Administrative approval was taken by the Chair on that.

15 In terms of the staff report on the Florida
16 election problems, we're going to hold that over for another
17 meeting, given the time. And we're also waiting for some
18 feedback from other states on what they do in terms of, you
19 know, the lock down, the software.

20 So I would like to provide kind of a historical
21 overview for the Panel before giving you some options for
22 decisions.

23 In terms of the long-range calendar, we do have a
24 couple of issues that need to be addressed by the Panel. So
25 I would like to defer to the Panel in terms of when you

1 would like to schedule another meeting.

2 CHAIRPERSON JENNINGS: Well, I believe, Dawn, that
3 the next meeting is going to be held publicly in January at
4 which time the new Secretary will be in place. And this
5 body may not be comprised of the same individuals, and
6 certainly won't be comprised of your Chairman. I will be
7 leaving. This will be my last meeting. And it is likely
8 that I'll be leaving by mid-month.

9 So, with that in mind, I think it would be
10 appropriate to allow the Secretary Elect and/or his new
11 UnderSecretary to make that decision with respect to another
12 date for a meeting.

13 Do you have any pending applications for
14 certification?

15 MS. MEHLHAFF: We do have one that's out there
16 that is ready to be put before the Panel, that came in after
17 this meeting was already set. However, that vendor is
18 understanding of the issues with the transition, and they
19 are willing to wait into early next year for that to be
20 before the Panel.

21 CHAIRPERSON JENNINGS: Well, John just informed me
22 that the Secretary Elect has said that he would just as soon
23 keep this Panel as it is for now, with one replacement, of
24 course.

25 And with that in mind why don't we go ahead and

1 establish a date then in January so we can move forward on
2 that certification application.

3 We have normally met on a Wednesday, this being a
4 Monday was a little strange, but I think that was due to
5 some correspondence and some other deadlines that were set
6 for us.

7 But if you have a calendar with you, could we look
8 at about mid-month, thinking somewhere between what, the
9 12th and the 16th.

10 How about the 15th of January?

11 MS. MEHLHAFF: The 15th? Okay.

12 CHAIRPERSON JENNINGS: At 10:00 in this same room.

13 MS. MEHLHAFF: We have the Voting Monitorization
14 Board meeting that morning.

15 CHAIRPERSON JENNINGS: On the same morning?

16 MS. MEHLHAFF: Yes.

17 CHAIRPERSON JENNINGS: Thank you.

18 MS. MEHLHAFF: So, the 22nd?

19 CHAIRPERSON JENNINGS: So we'll move it to the
20 22nd, right.

21 MS. MEHLHAFF: January 22nd.

22 CHAIRPERSON JENNINGS: Okay. Thank you.

23 Do we have any other comments, any other business
24 to come -- Ms. Seiler.

25 MS. SEILER: For the record my name is Deborah

1 Seiler and I'm with Diebold Election Systems. I will be
2 happy to provide a card, a business card.

3 Mr. Jennings, on behalf of Diebold Election
4 Systems and as a personal item, I would like to sincerely
5 congratulate you for the wonderful tenure and the wonderful
6 service to the State of California that you've provided in
7 Chairing this Board.

8 It's been my pleasure to work with you for eight
9 years. You have been unwaveringly fair and open minded, and
10 very committed to the process. And I would just like to
11 thank you.

12 CHAIRPERSON JENNINGS: Well, thank you very much.

13 (Applause.)

14 CHAIRPERSON JENNINGS: Well, it's indeed been a
15 real pleasure to be a part of history in the making, if you
16 will. If you just look back eight years and Kim is probably
17 one of the people that remember this best.

18 When we first pulled the Electronic Campaign
19 Reporting Advisory Board together, and we had 30 people in
20 that room; and I thought, there is no way that we're going
21 to get anything out of these 30 people with all 30 different
22 opinions.

23 But we now have electronic campaign reporting
24 that's running smoothly. At the time that we decided to
25 decertify the 45 or so voting systems, I didn't think that

1 would get done. But it got done.

2 And then the next thing you know we're in the
3 process of certifying touch-screen systems; and now there's
4 six systems, now seven systems certified in the State of
5 California. It's amazing, the transformation that occurs in
6 such a very short period of time. But that's the age we
7 live in. And fortunately, we've been able to respond to the
8 changing technology.

9 It's really been a pleasure to see the real
10 change. So, thank you, again. And this meeting is
11 adjourned.

12 (Whereupon, at 12:20 p.m., the meeting was
13 adjourned.)

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CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, do hereby certify that I am a disinterested person herein; that I recorded the foregoing hearing on a tape recorder; that thereafter the tape recording was transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, or in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of January, 2003.

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